

December 15, 2011

Via Email: CBSC@dgs.ca.gov

Mr. McGowan, Executive Director  
California Building Standards Commission  
2525 Natomas Park Drive, Suite 130  
Sacramento CA, 95833

**CALIFORNIA DEPARTMENT OF PUBLIC HEALTH (CDPH)  
15-DAY COMMENT PERIOD – PROPOSED CHANGES TO CHAPTER 31B**

Dear Commission Members:

As a member of the Ad Hoc Advisory Committee, I have reviewed the latest package regarding the proposed changes to Chapter 31B from the California Department of Public Health (CDPH) and find that the agency has failed to follow through with the Committee's recommendations. I motioned for "further study" to allow the agency to incorporate the Committee's recommendations and comments. The primary concern is that this proposed change has not been coordinated with the remainder of the Code. The proposed Chapter was written as a standalone Code section. This is not the overall approach or at least should not be the approach of Title 24. Title 24 should be a Unified Code and not a Code written by 10 or more separate State agencies for their own needs.

The basic intent on a lot of the Committee's comments was coordination with other parts of the Code. Do not duplicate and create possible conflicts. If another portion of the code addresses the issues, use the section and reference it. In a case where it is truly something that does not meet your needs and you have to amend it, make sure you can justify what and why technically and not say "it is needed". This is especially true for numeric values. Why 100 feet? If the value is used in another part of the Code, it may be justification.

I offer the following comments:

**Section 3103B.3** – This is already covered and is in Chapter 1/Administration. Unless CDPH has a different requirements for plan submission, not needed here.

**Section 3105B** – This should be in Chapter 1/Administration, if needed at all. Item 4 is already covered in Chapter 1.

**Section 3106B.20** – I understand the need for lighting if the ground spray is used at night, and only when in use, but the use of the term “adequate natural lighting” and “lighting levels” needs to be defined.

**Section 3116B General** – Much of what is wrong with this section is what has been stated above. Don’t reinvent the wheel, especially on occupant load. This is addressed in Chapter 10 for egress. If you can live with these values, use them. I did not see anything in this section that really justifies using different numbers. What you have created will cause confusion and conflict with Chapter 10. Even the Plumbing Code utilizes the numbers in Chapter 10 to determine fixture count. Plumbing fixture requirements should be left in the California Plumbing Code (CPC). What has been created here is a whole new set of unnecessary standards that will be costly and cause confusion with other portions of the Code.

**Section 3116B.1** – I will accept for public safety and convenience reasons, toilet and bathing facilities may be required at a pool. The issue is how many and where? Exception 1 begins to address the issue, but does not go far enough. Also, the term “may” is used, this makes it optional. This is bad code language. Exception 2 uses the value of 300 feet which is an arbitrary value and has no basis. There needs to be more exceptions, including small ground spray features like a fountain in front of City Hall. Requiring a toilet facility for this is costly and would not serve the purpose intended by CDPH. Is it expected that everyone using the feature to wash before using? How is this enforced and managed or maintained? Not practical.

**Section 3116B.2 to the End** – Public toilets associated with swimming pools can be a hot topic, especially when they are associated with living/guest units. The first part of this section should not be included. Plumbing Code Chapter 4 and Table 4-1 should be used to determine the number of fixtures (see Chapter 29 of the Building Code on what could be used). Again, unless there is a real different requirement on the number of fixtures for health reasons, the Plumbing Code already addresses this and referencing the CPC should be used.

The tricky part is when the facilities double-up like in a hotel or apartment complex. Most people would rather go back to their own unit to bathe and/or use the facilities, so I think that in these cases, the facilities at the pool are for convenience only and may be just one facility. Stay away from requiring “minimum one” per sex. At a small pool, this could be a hardship. The Plumbing Code and other sections already address this. That is why I believe the 100 feet and 300 feet should not even be in the Code. The problem with the proposed text is, if the pool area is large, like at a resort hotel, where it could be 10,000 square feet or more of pool and deck, this number could require a lot of toilet fixtures, which would never be used. For a standalone swimming facility, the number may be more appropriate.

What I suggest is that you leave the plumbing fixtures to the Plumbing Code and, if necessary, state that at least one be provided at the pool when other facilities are available. This applies to

all of the bathroom requirements. Most are already covered in the Code related to the construction. These will be found in the Building and/or Plumbing Codes.

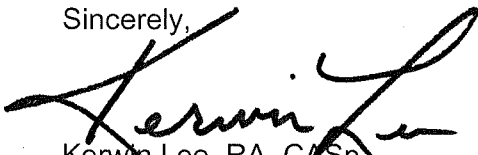
Also, look at the content of what you are proposing, is it really necessary? Bathroom accessories are not required by any other sections of the Code, why here? It is assumed that a toilet tissue dispenser, seat cover, towel, soap, and waste receptacles are normally provided. Requiring it may be a bit overboard. What if a hotel chooses to provide a valet with towel service? Same with requiring hot and cold water. If you really feel it is necessary, be generic and state a method of drying the hands is required. Then the designer/owner can choose the method.

**Section 3117B/Drinking Fountains** – This section is not necessary and is already addressed in the CPC.

**Conclusion** – I ask the Commission to disapprove all of the sections I have commented on, because they are already addressed in the Code. If CDPH has reasoning to amend the section(s) already in the Code, they should do so in the appropriate section and be ready to justify them technically.

Remember, the Code is a minimum set of guidelines and should be flexible to allow people to make a choice as to how to comply. I understand the public safety aspect, but at what cost and is it reasonable? There is a difference between public safety and convenience. Sociological needs should not be confused with public safety. I use the following adage when it comes to the Code, *"Risk is never eliminated and safety is never absolute, it is something in between we live with."*

Sincerely,

A handwritten signature in black ink, appearing to read 'Kerwin Lee', with a stylized flourish at the end.

Kerwin Lee, RA, CASp  
Kleecodes01@gmail.com